



**U.S. Army Corps of Engineers Listening Meeting
Atlanta, July 12, 2000
Comments Submitted by
the Southern Environmental Law Center**

The Corps' Credibility Crisis

The Corps has recently come under attack in the media and on Capitol Hill following a series of recent *Washington Post* stories that documented a disturbing pattern of improper "project-pushing" by personnel in the Corps' Civil Works Program. The *Post* documented that a "Program Growth Initiative" was circulated among Corps leaders setting a target budget of \$6.2 billion in projects by the year 2005. Further, the articles revealed that top generals had pressured underlings to "get creative" with cost-benefit analysis so that major civil works projects would get a green-light for authorization and construction. According to one Corps official: "That's how we measure growth around here—anything that gives us more work to do."

These revelations seemed to merely document what many long suspected: that the Corps of Engineers has an institutional bias in favor of constructing costly facilities to benefit powerful special interests while disregarding attendant costs to the environment and the American taxpayer. To counteract this view and regain the confidence of the American people, the Corps should take decisive measures to remedy its pro-build institutional bias and review its most questionable, and most damaging, projects with a sober eye. Army Secretary Caldera's initial response to the *Post* series, to re-establish the Assistant Secretary's firm control over the Civil Works program, promised to move the Corps in the right direction. Unfortunately, that directive has apparently been reversed.

Failure to reform the Corps will put some of the nation's most critical resources at risk. Indeed, few if any agencies have as great an impact on the nation's water resources as the U.S. Army Corps of Engineers. The Corps has constructed more than 500 dams, channelized 9,000 river miles, and constructed or improved more than 8,000 miles of levees and floodwalls. The nation's largest rivers – the Mississippi, Missouri, Ohio, Sacramento, Rio Grande, Columbia, Savannah, Snake, Chattahoochee – are harnessed by Corps dams and cut off from their floodplains by Corps levees. The nation's harbors and estuaries have been diked and channelized by Corps structures and dredged by Corps workboats. Miles of coastal shoreline have been lined with rock and concrete, or converted into uniform beaches with little value to marine life. Today, the Corps operates dams with little regard for their environmental consequences. One need look no further than the Richard B. Russell dam on the Savannah River to see this is so.

In recent years, habitat restoration and mitigation has become an increasingly important part of the Corps' mission. Nevertheless, the construction of new projects as well as the operation of existing projects continues to contribute to the loss of habitat and aquatic species. The Corps is at a critical crossroads. While the agency's political leadership proposes to expand the Corps' growing environmental mission, the Corps' Congressional patrons, military leaders and institutional culture continue to support projects and maintenance operations that ignore and undervalue the nation's natural resources.

If revelations of the sort reported in the *Post* persist, major reform of the Corps Civil Works Program will only be a matter of time. Mindful of that fact, the Corps should not retreat into a bunker mentality and deny that the documented problems exists; such recalcitrance will only bolster the notion that the Corps cannot be trusted to reform itself, meaning that change must be imposed from the outside. Instead, the Corps should acknowledge its problems forthrightly and take the following strong moves to restore public trust in its accountability and responsibility:

1. Modernize the Cost-Benefit Methodology

The Corps must reform its feasibility study process to require that Corps projects benefit the public rather a small group of special interests (e.g., foreign owned shipping lines or grain cartels). To that end, the calculation of benefits should explicitly account for costs to publicly owned natural resources as well as for the demonstrated historical uncertainty of Corps benefit-cost estimates. The modernized methodology should be applied to previously authorized projects as well as new ones.

As the Corps is aware, many completed projects have failed to produce promised benefits, including segments of the Inland Waterway System. Many segments of the Inland Waterway System have never supported as many barges as predicted, including the Missouri, Alabama-Coosa, Atlantic-Intracoastal, Tennessee-Tombigbee, Allegheny, Pearl, Willamette, Apalachicola, Kaskaskia, Kentucky, White, and Red Rivers. As a result, 18 of the Inland Waterway System's 29 segments move less than three percent of the nation's barge traffic while consuming more than 30 percent of the system's Operations and Maintenance costs.

In addition to overstating benefits, the current Corps methodology all too often understates a project's costs. In retrospect, many Corps projects, while presented as economically justified by the Corps, have in reality proved the opposite. The Corps should develop new tools to predict project benefits and costs and, to address this uncertainty, require that project benefits be twice as great as project costs. In addition, the Corps should monitor completed and authorized projects to ensure that prior benefit-cost calculations are reasonably accurate and a new process should be created to regularly review and update project operations to reflect changed conditions and new information.

2. Encourage Independent Review and More Local Oversight

There is growing evidence that Corps planners have “green-lighted” economically questionable and environmentally destructive projects by bending applicable review procedures. Such zealous “project-pushing” is the byproduct of a system with clear institutional incentives favoring a steady and even growing supply of construction projects. The obvious incentives include the Corps’ natural desire to preserve its reason for being, and thus its budget requests; the natural desire of Corps employees and officials to maximize job security; the elimination of technical review by the Corps’ review branch; the absence of meaningful oversight by Congress or the Assistant Secretary of the Army; and, perhaps most critical, powerful pressure by cost-sharing partners and project beneficiaries, who benefit directly from the federal subsidization of individual pet projects.

These factors combined to contaminate the Corps’s decision-making process in the Rock Island District, where a string of e-mails, internal memos and affidavits showed Corps leaders urging economists to exaggerate expected demand for barges to justify the construction of new locks. Top Corps officials directed the Rock Island study team “to develop evidence or data to support a defensible set of . . . projects,” while one memo candidly declared that if the economics did not “capture the need for navigation improvements, then we have to find some other way to do it.”

Evidence suggests the process has been tainted in the Savannah Harbor Expansion project as well. Several newspapers reported on alarmingly frank notes taken at a meeting between representatives of the Georgia Ports Authority, the local project sponsor, and representatives of the Georgia Congressional delegation. The notes indicate that pro-project forces were “tired” of being pushed around by the “rinky dink” United States Fish and Wildlife Service, an agency responsible for managing the Savannah National Wildlife Refuge. (The Service voiced opposition to deepening on the basis of preliminary reports indicating that the project would decimate the Refuge’s remaining freshwater marsh). In response, stated the notes, someone needed to “kick FWS’s ass” in the media. The statements suggest, at a minimum, that the public could no longer assume that the project’s pushers were interested in a fair or clearheaded analysis of the project and its tremendous environmental costs.

A project-pushing bias seems also to underlie the Corps’ \$311 million proposal to deepen the Delaware River. Critics maintain that the Corps’ economic justification incorrectly presumes that oil refineries will deepen their approach channels to take advantage of the deepening project despite clear evidence that certain refineries will *not* deepen their approach channels. Members of Congress have now called for a General Accounting Office review of the Delaware River proposal.

In light of recent developments, the Corps should propose, support and adopt measures to increase independent and public oversight of a credible project evaluation process. For example, the Corps should support congressional efforts to require independent review for projects whose total costs exceed \$25 million or that are

considered controversial by the U.S. Fish and Wildlife Service or Environmental Protection Agency. Not only would independent review of large Corps projects *detect* abuses and error, it would *deter* further abuses and empower Corps planners to resist pressures to bend the rules by project-beneficiary special interests.

3. Stop Low-Balling Environmental Impacts

Where a “project-pushing” bias is in play, the environmental costs of a project are likely to get downplayed. One need look no further than the Savannah Harbor Expansion project for an example of environmental considerations being given short shrift in the rush to recommend the project as a “go.” Remarkably, the Corps acknowledged that it lacked essential information about the project’s impacts – whether the federally endangered shortnose sturgeon would be jeopardized; how many acres of rare tidal freshwater marsh would be destroyed; how far up the River saltwater would encroach; whether striped bass recovery would be precluded; whether the channel would intercept sand transport to area beaches – and then went on to recommend the project anyway.

Beyond indicating that the Corps is indeed bent on growing its “project portfolio,” the Savannah recommendation suggests that consideration of the environment is, in the mind of the Corps, *literally an afterthought*. It is worth noting that the Corps was not required to take the course that it did. It could have simply admitted that it lacked the necessary basis to give the project a favorable recommendation. Instead, the Corps issued its recommendation before the information was in, guaranteeing that it hadn’t taken the “hard look” at environmental impacts required by law. Rather than doing the bare minimum or even less, the Corps should fulfill its environmental stewardship duties to the maximum and make natural resource protection a central part of the agency’s mission.

4. Take Responsibility for Related Projects

Corps projects are generally pursued on a District-by-District basis, a scheme that encourages each District to rely on the local congressional delegation for political protection and support when it comes to budget time on Capitol Hill. Not surprisingly, Corps Districts are in turn quite responsive to the wishes of local elected officials and especially their desire to promote constituent-pleasing projects in the local District. The dynamic is further fueled by a mutual desire, on the part of elected officials and Corps personnel, to “bring home the bacon” in the form of federally-funded construction projects that showcase the elected official’s pork-gathering skills and guarantee secured funding for local Corps employees.

Among other problems, this District-by-District approach results in a fragmented view of issues that are, in truth, interrelated and “trans-District.” In the case of Savannah Harbor Expansion, for example, the chief benefits claimed are making the Port “cost competitive with other ports” and accommodating vessels with a capacity of more than 4,500 container units. This essential rationale, however, is also being invoked in support of subsidized deepenings across the nation. For example, the ports of Charleston, South

Carolina; Jacksonville, Florida; Wilmington, North Carolina; Norfolk, Virginia; Baltimore, Maryland; Wilmington, Delaware and Newark/New York all have undertaken or are planning subsidized channel expansion projects to facilitate deeper draft containerships and bolster their competitive positions.

The various ports state that they are driven by the demands of foreign-owned shipping lines, which have introduced "mega" containerships with drafts of 40 feet or greater, but the shipping industry has made plain its desire to maximize the number of American ports deepened at citizen expense. Indeed, shipping interests are currently lobbying to increase federal subsidies for deepenings and have threatened port officials that failure to deepen will cause the loss of shipping business.

The resultant "race to the bottom" – with individual ports deepening their channels to compete with each other for a limited fleet of mega-containerships – will likely end in an oversupply of subsidized deep draft facilities. The missing referee for this wasteful competition is the Corps of Engineers. As the Corps is aware, the sum of individual local port traffic forecasts is often far greater than could be reasonably expected for the U.S. as a whole. The Corps is also aware that subsidized competition among individual ports encourages over-investment, facility duplication, and expensive overcapacity. Yet the Corps has resisted doing a systematic or programmatic analysis of the need to deepen ports along the east coast to deal with expected levels of containership traffic (even though that analysis is required under the National Environmental Policy Act ("NEPA")). A main barrier to such an assessment is the territorial District-centric structure, which supports a "from-the-bottom" approach rather than systematic overview. As a result, the Corps has not addressed the merits of using alternative federally subsidized ports to accommodate anticipated traffic increases instead of spending \$230 million to deepen Savannah.

The problem also emerges in the beach replenishment context, where the Corps is pursuing various renourishment projects without first completing a National Shoreline Study. From a Corps budgetary perspective, beach replenishment projects share many virtues of harbor dredging projects, for example by requiring perpetual maintenance and self-reinforcing expenditures. And, like dredging projects, sand replenishment is popular with local delegation members because it brings federally-subsidized pork to powerful local interests. It is therefore not surprising to find Districts up and down the east coast promoting beach replenishment projects in every budget request.

The dangers of this fractured approach are clear. First, the fractured approach fails to take into account the fact that littoral transport occurs in the broader context of coastal systems, not project-by-project. Second, the Corps has failed to assess the programmatic implications of its projects on coastal development and how they encourage development in erosion-prone areas. Third, by piecemealing the projects, the Corps has obscured the true costs of artificial shoreline construction for the nation. And the costs are not minor: Experts predict that a recent authorization to provide 100-foot wide beaches along all 127 miles of New Jersey's sea coast will cost more than \$9 billion

over the next 50 years. Finally, the Corps has not evaluated cumulative ecological impacts of shore-wide sand placement.

The Corps should complete the National Shoreline Study before proposing or pursuing any new beach replenishment projects. Further, the Corps should work to ensure that its projects and objectives are consistent with and give way to the more important mission of the Federal Emergency Management Agency ("FEMA") to avert needless losses of property and life along the nation's seaboard caused by risky ocean-side development.

5. Aggressively Pursue Effective Mitigation and Environmental Restoration

Mitigation

In some cases, the Corps has failed to mitigate for the environmental impacts of levees and dams, or mitigation has not produced expected benefits. For example, the Vicksburg District of the Corps has a backlog of more than 30,00 acres of promised mitigation which has not been completed. In addition, mitigation for Corps projects often replaces a fraction of the habitat destroyed.

The Corps should meet the same habitat mitigation standards as are met by private developers; in particular, the Corps should concurrently replace at least an acre of habitat for each acre of habitat impacted by a project, and should design projects to reflect the contemporary understanding of aquatic ecosystems. Funding for project construction and mitigation should be included in a single construction request and appropriation to ensure that mitigation is completed.

In addition, the Secretary should not recommend a project when the impacts of a proposed project cannot be cost-effectively or successfully mitigated. In the past, the Corps would attempt to mitigate for projects regardless of cost or the likelihood of success. Efforts to mitigate for the construction of four dams on the Lower Snake River is an example of this approach. Though more than \$3 billion has been spent on mitigation, all runs of Snake River salmon are considered endangered by the federal government. The Corps should expand the Environmental Advisory Board to evaluate projects in the reconnaissance phase to determine whether the project is likely to have environmental impacts which cannot be cost-effectively or successfully mitigated.

Restoration

By their very nature and design, Corps flood control and navigation projects can have had devastating impacts on the nation's aquatic resources. Scientists have linked dams, levees and channel training structures to the extinction of scores of freshwater species, and the likely extinction of hundreds more freshwater species during the next century. Indeed, North America's freshwater species are disappearing as quickly as tropical rainforest species and five times faster animals that live on land. To date, 17 freshwater fish species are extinct, and one in ten of North America's mussel species are

extinct. Two-thirds of North America's remaining mussels and one-third of North America's amphibians are imperiled.

Corps projects are a major contributor to the loss of freshwater biodiversity. More importantly, the Corps is, in many cases, the only agency with the legal jurisdiction and engineering expertise capable of repairing these damaged waterways. For example, the Corps is frequently the only state or federal agency which can restore wildlife habitat along segments of the 11,000-mile Inland Waterway System. As the twenty-first Century begins, the biological future of many of America's most nationally significant waterways –including the Mississippi, Missouri, Ohio, Columbia, Snake, Rio Grande, Sacramento rivers – will depend upon the restoration skills of the same agency that placed their biological future in peril. The Corps should adopt and carry out environmental restoration as one of primary missions.

Just as flood control and navigation projects must reflect sound science and economics, the Corps' restoration and mitigation projects should be state-of-the-art. The reforms discussed above should apply to the Corps' restoration program – independent review, greater local input, better estimates of cost-effectiveness, and adequate economic mitigation for the economic impacts of proposed restoration projects. These reforms will ensure that restoration and mitigation projects are cost-effective, scientifically sound, and meet broad ecological goals. They will also ensure that projects are not misleadingly labeled as "environmental restoration" projects when they will in fact serve other purposes such as water supply or navigation. For example, in South Carolina alone two projects have been improperly labeled "restoration" projects when they are clearly designed for other purposes. A series of dams proposed for tributaries of the scenic Pee Dee River are being pursued as a restoration project even though state and federal resource agencies found no need for "restoration" (and indicated the project could have negative environmental consequences), when in truth the impoundment is being pushed for water supply and economic development purposes. A groin project for Folly Beach is also classified as restoration when the true purpose is to harden the beach to prevent natural sand transport.

Conclusion

The Corps faces a renewed challenge that it must address seriously. Its pro-project bias and its deliberate undervaluation of environmental resources leave the public with little confidence in the agency's commitment to environmental protection and environmental restoration.

Thank you for the opportunity to present our views.